

Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Note: Instructions to DNRC staff for preparing this EA can be found at:
http://www.dnrc.state.mt.us/eis_ea.html

Part I. Proposed Action Description

1. *Applicant/Contact name and address:* Jozef Dobos DeBoleraz
PO Box 923
Troy, MT 59935
2. *Type of action:* Permit to Appropriate Water No. 76B-30020640
3. *Water source name:* Kilbrennan Creek
4. *Location affected by action:* NW¹/₄, Section 31, Township 33N, Range 33W, Tract 6 in HES 114 of COS 562 Lincoln County.
5. *Narrative summary of the proposed project, purpose, action to be taken, and benefits:*
The DNRC shall issue a water use permit if an applicant proves the criteria in 85-2-311, MCA are met. The applicant is requesting 240 gpm up to 387.12 acre-feet per year for power generation. The point of diversion is on Kilbrennan Creek in the NW¹/₄, Section 31, Township 33N, Range 33W, Lincoln County. This location is further described as tract number 6 of HES 114 of COS 562. The scope of this EA will be limited to the diversion and appropriation of water from Kilbrennan Creek. The project was completed over two years ago and all ground disturbing activity has already taken place. The appropriator will realize a major benefit using the power generated from the waterpower machinery.
6. *Agencies consulted during preparation of the Environmental Assessment:*
(include agencies with overlapping jurisdiction)

Montana Department of Fish Wildlife & Parks & Lincoln Co. Conservation District.

Part II. Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity - Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.

Determination: The DFW&P dewatered stream list was reviewed and Kilbrennan Creek is not listed.

Water quality - Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.

Determination: The Montana 303(d) list was reviewed and Kilbrennan Creek is not listed.

Groundwater - Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.

Determination: There will be no impact to groundwater or groundwater/surface water interactions.

DIVERSION WORKS - Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.

Determination: The diversion is comprised of horizontal pipes placed underneath Kilbrennan Creek that supply a six-foot diameter cistern. The system operates inertly to preserve existing riparian vegetation and in a manner to reduce in-stream turbidity. From the cistern the water is transported by gravity through the penstock to the turbine. The penstock is 10.75 inch outside diameter for the entire length of 2,650 feet. Four different sections of the penstock reduce inside diameter to increase pressure as elevation decreases. Once the water leaves the powerhouse it is discharged into the Yaak River approximately 2,100 feet above the confluence with Kilbrennan Creek.

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species - Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any "species of special concern," or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or "species of special concern."

Determination: The minor action requested has inconsequential impact to endangered species and species of special concern. Mike Hensler of Fish, Wildlife & Parks made a site visit and approved the diversion with standard and specific project requirements. No impact.

Wetlands - Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.

Determination: Not applicable.

Ponds - For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.

Determination: Not applicable.

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE - Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.

Determination: Ground-disturbing activities have been completed for over two years. No impact.

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS - Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.

Determination: No impact likely.

AIR QUALITY - Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.

Determination: No impact.

HISTORICAL AND ARCHEOLOGICAL SITES - Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project.

Determination: No impact. All ground-disturbing activity is complete.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - Assess any other impacts on environmental resources of land, water and energy not already addressed.

Determination: None.

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.

Determination: Land use will not change.

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES - Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.

Determination: There will be no impact to the quality of recreation or wilderness activities nor will access be denied to any established recreation areas.

HUMAN HEALTH - Assess whether the proposed project impacts on human health.

Determination: No Impact

PRIVATE PROPERTY - Assess whether there are any government regulatory impacts on private property rights.

Yes___ No_X_. If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.

Determination: No impact.

OTHER HUMAN ENVIRONMENTAL ISSUES - For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.

Impacts on:

- (a) Cultural uniqueness and diversity? No
- (b) Local and state tax base and tax revenues? No
- (c) Existing land uses? No
- (d) Quantity and distribution of employment? No
- (e) Distribution and density of population and housing? No
- (f) Demands for government services? No
- (g) Industrial and commercial activity? No
- (h) Utilities? No
- (i) Transportation? No
- (j) Safety? No
- (k) Other appropriate social and economic circumstances? No

2. ***Secondary and cumulative impacts on the physical environment and human population:*** Currently an applicant must prove water is physically and legally available before a permit is granted. As more permits are issued it may not be possible to prove this criteria.
3. ***Describe any mitigation/stipulation measures:*** Insure stream is protected from erosion and fish passage is not affected.
4. ***Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:*** The nature of this proposed action makes alternatives unreasonable to consider.

PART III. Conclusion

Based on the significance criteria evaluated in this EA, is an EIS required? No

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action: No significant impacts have been identified, therefore no EIS is necessary.

Name of person(s) responsible for preparation of EA:

Name: Rich Russell

Title: Water Resources Specialist

Date: August 23, 2006